

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Summary of Proposed Addition to Title 4, Chapter 4, rule 4.320 to the Local Rules

Trial by declaration in absentia

Proposed rule 4.320 of the court's Local Rules ("Rules") entitled *Trial by declaration in absentia* is part of the court's continuing effort to review, correct, and update its Rules as needed.

Proposed rule 4.320 is summarized below and the full text of the proposed rule, noted in [underline](#), immediately follows the summary.

SUMMARY

- ☐ The proposed rule is added to support the court's program to conduct trials by written declaration for defendants who fail to appear on selected traffic violations.

TEXT OF PROPOSED LOCAL RULE

Rule 4.320. Trial by declaration in absentia

Under Vehicle Code section 40903, any person who fails to appear as provided by law may be deemed to have elected to have a trial by written declaration upon any alleged infraction, as charged by the citing officer, involving a violation of the Vehicle Code or any local ordinance adopted pursuant to that code. In eligible cases the court will conduct the trial in absentia and it will be adjudicated on the basis of the notice to appear issued under Vehicle Code section 40500 and any business record or receipt, sworn declaration of the arresting officer, or written statement or letter signed by the defendant that is in the file at the time the trial by declaration is conducted.

If the court finds the defendant guilty, the conviction will be reported to the Department of Motor Vehicles and the court will notify the defendant, by first class mail, of the disposition of the case, the amount of imposed fines and fees, and the defendant's right to request a trial de novo within the time specified in the notice. In order to have a trial de novo, the defendant must submit a written request on Judicial Council form TR-220 and pay the total amount due within the time specified in the notice. If the defendant makes no timely request for a trial de novo and has not paid the fines and fees by the due date, the case will proceed to civil assessment as provided under Penal Code section 1214.1.